

BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

---oo0oo---

IN THE MATTER OF THE PETITION BY THE DIVISION OF OIL, GAS AND MINING FOR AN ORDER THAT DAN POWELL, AND EMERY INDUSTRIAL RESOURCES, INC. CEASE MINING AND BE ORDERED TO BEGIN IMMEDIATE RECLAMATION OF THE CHERRY HILL PARK MINE, UTAH COUNTY, UTAH.	: : : : : :	NOTICE OF HEARING DOCKET NO. 2003-004 CAUSE NO. M/049/021
---	----------------------------	---

---oo0oo---

THE STATE OF UTAH TO ALL PERSONS INTERESTED IN THE ABOVE
ENTITLED MATTER.

Notice is hereby given that the Board of Oil, Gas and Mining ("Board"), State of Utah, will conduct a hearing on Wednesday, May 28, 2003, at 10:00 a.m., or as soon thereafter as possible, in the Board Room of the Department of Natural Resources, 1594 West North Temple, Suite 1050, Salt Lake City, Utah.

The hearing will be conducted as a formal administrative adjudication in accordance with the rules of the Board as set forth in Utah Administrative Code R641 *et seq.* (2002) as provided for by Utah Code Ann. § 40-8-1 *et seq.* (2002) and Utah Code Ann. § 63-46b-1 *et seq.* (2002).

The purpose of the proceeding will be for the Board to receive testimony and evidence regarding an Order:

1. Withdrawing the Small Mine Notice of Intention as a result of the operator's expansion of the original small mine operation beyond the 5 acre limits without prior approval by the Division of Oil, Gas and Mining ("Division"), and the Division's denial of the Notice of Intention to Commence Large Mining Operations due to the failure of the operator to post an adequate bond;
2. Requiring that the Respondents cease mining;
3. Requiring the mine operator, Emery Industrial Resources ("EIR") and/or Dan Powell to commence immediate reclamation of all pertinent lands affected by the Cherry Hill Park Mine located in portions of the NW 1/4 of Section 36, Township 11 South, Range 8 East, SLBM, Utah County, Utah;

4. Providing that in the event required reclamation is not completed by the Operator that the Division shall be authorized to complete the reclamation and to seek recovery of costs and expenses of reclamation from the responsible parties in any appropriate court; and

5. Providing such other relief as the Board may deem just and equitable under the law and facts as may be adduced in the proceeding herein.

Objections to this matter should be filed with the Secretary of the Board at the address listed below no later than the 10th day of the month, or two weeks before the scheduled hearing, whichever is earlier. Objections filed later may be considered by the Board at or before the regularly scheduled hearing for good cause shown.

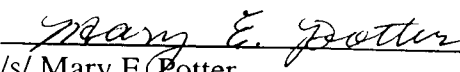
Natural persons may appear and represent themselves before the Board. All other representation by parties before the Board will be by attorneys licensed to practice law in the State of Utah, or attorneys licensed to practice law in another jurisdiction which meet the rules of the Utah State Bar for practicing law before the Utah Courts. Attorney representation may be waived by the Board upon petition and good cause shown.

Persons interested in this matter may participate pursuant to the procedural rules of the Board. The Notice of Agency Action, and any subsequent pleadings, may be inspected at the office of the undersigned. A party who fails to attend or participate in the hearing may be held in default.

Pursuant to the Americans with Disabilities Act, persons requiring auxiliary communicative aids and services to enable them to participate in this hearing should call Mary Potter at (801) 538-5327, at least three working days prior to the hearing date.

DATED this 5th day of May, 2003.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING
W. Allan Mashburn, Chairman


/s/ Mary E. Potter
Secretary to the Board
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84116
(801) 538-5327

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing NOTICE OF HEARING for Docket No. 2003-004, Cause No. M/049/021 to be mailed with postage prepaid, this 2nd day of May, 2003, to the following:

CERTIFIED MAIL

7099 3400 0016 8895 8249

Dan Powell

262 South 800 West

Payson, Utah 84651

CERTIFIED MAIL

7099 3400 0016 8895 8256

Dan Powell

As Agent for

Emery Industrial Resources

P.O. Box 489

Price, Utah 84501

Kurt E. Seel, Esq.

Assistant Attorney General

Attorney for Board of Oil, Gas & Mining

160 East 300 South, 5th Floor

P.O. Box 140815

Salt Lake City, Utah 84114-0815

Steven F. Alder, Esq.

Assistant Attorney General

Attorney for Division of Oil, Gas & Mining

1594 West North Temple, Suite 300

Salt Lake City, Utah 84116

Buck Rose

Utah County Community Development

100 East Center

Provo, Utah 84601

E. J. Stokes

52 South 350 East

North Salt Lake, Utah 84054

